



COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

January 5, 2004

Maria M. Oms
Auditor-Controller
Lloyd W. Pellman
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Hans Estrada, Netzer Estrada, Jerry Estrada, by and through
their Guardian Ad Litem, Rosa Estrada, Rosa Estrada v.
County of Los Angeles**
Los Angeles Superior Court Case No. BC 267 396

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$600,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Department of Health Services.

Enclosed is the settlement request and a summary of the facts of the case.

The Corrective Action Report is being transmitted to you under separate cover by the Department of Health Services.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO/fsl

Enclosures

MEMORANDUM

December 19, 2003

TO: LOS ANGELES COUNTY CLAIMS BOARD

FROM: JACK SCHULER, Esq.
Law Offices of Schuler & Brown

OWEN L. GALLAGHER
Principal Deputy County Counsel

RE: Hans Estrada, Netzer Estrada, Jerry Estrada, by and through their
Guardian Ad Litem, Rosa Estrada, Rosa Estrada v. County of Los
Angeles
Los Angeles Superior Court Case No. BC267396

DATE OF
INCIDENT: September 12, 2000, through January 2, 2001

AUTHORITY
REQUESTED: \$600,000

COUNTY
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☐

Recommend to Board of
Supervisors for Approval

ROCKY A. ARMFIELD, Chief Administrative Office

LLOYD W. PELLMAN, County Counsel

MARIA M. OMS, Auditor-Controller

on _____, 2004

SUMMARY

This is a recommendation to settle for \$600,000 the wrongful death lawsuit brought by Rosa Estrada (wife), Hans Estrada (minor son), Netzer Estrada (minor son), and Jerry Estrada (minor son) for the death of Mario Estrada while hospitalized at King/Drew Medical Center on February 8, 2001.

LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

SUMMARY OF FACTS

On September 12, 2000, Mario Estrada, a 37-year-old man, was seen at Imperial Heights Health Center with complaints of a severe headache, vomiting, blurred vision, and a ringing in his ears. Medical personnel ordered an imaging study generated by computer synthesis of x-ray data (CT scan) to eliminate the possibility that Mario Estrada's symptoms might be the result of an abnormal mass or lesion within the brain. Mario Estrada was given medication for pain, and discharged with a follow-up appointment scheduled for October 19, 2000. The order for a CT scan was sent to King/Drew Medical Center for scheduling.

On October 19, 2000, Mario Estrada was again seen at Imperial Heights Health Center with complaints of worsening headaches. Medical personnel again ordered a CT scan to eliminate the possibility of an abnormal mass or lesion within Mario Estrada's brain. Mario Estrada was given medication for pain, and discharged with instructions to return to Imperial Heights Health Center for a follow-up examination in eight weeks. The order for a CT scan was sent to King/Drew Medical Center for scheduling. Although a CT scan had been scheduled for October 20, 2000, the medical record does not indicate that Mario Estrada was advised of the scheduling of the CT scan, and there is no record of a CT scan being performed on that date.

On December 28, 2000, Mario Estrada was again seen at Imperial Heights Health Center with complaints of worsening headaches. Although Mario Estrada's severe headache persisted and was not relieved by pain medication, medical personnel did not consider transferring him to the Emergency Room at King/Drew Medical Center for performance of an immediate CT scan to eliminate the possibility that his symptoms might be the result of an abnormal mass or lesion within the brain. Instead, Mario Estrada was instructed to go to King/Drew Medical Center with an order for the scheduling of a CT scan.

On January 2, 2001, Mario Estrada was seen at King/Drew Medical Center with the order from Imperial Heights Health Center requesting a CT scan. A CT scan of his brain was performed. Although the CT scan indicated an abnormal sac within the brain containing an infection and infestation by the larval stage of the pork tapeworm (cysticercosis cyst), the CT scan images were not read and interpreted by medical personnel. If left untreated, a cysticercosis

cyst may rupture, causing inflammation and the accumulation of fluid within the cranial cavity (cerebral edema), resulting in a widening of the cavities of the brain (hydrocephalus).

On February 5, 2001, Mario Estrada was seen in the Emergency Room at King/Drew Medical Center with complaints of a severe headache. Although medical personnel were aware that Mario Estrada had been given a CT scan on January 2, 2001, the results of the CT scan were not requested. Instead, Mario Estrada was given a neurologic examination, which was interpreted as normal. Mario Estrada was given medication for pain, and discharged.

On February 6, 2001, Mario Estrada was seen at Imperial Heights Health Center with complaints of severe headaches, dizziness, nausea, and vomiting. It was noted that he had an abnormal sensitivity to light, and abnormal eye movements. Medical personnel contacted the Radiology Department at King/Drew Medical Center to determine the results of the CT scan performed on January 2, 2001. The CT scan was read and interpreted for the first time, and, based on the results, Mario Estrada was advised to return to King/Drew Medical Center for an emergency neurologic consultation.

At 5:05 p.m., Mario Estrada was seen in the Emergency Room at King/Drew Medical Center. At 7:15 p.m., he suffered a seizure, and a complete cessation of breathing (respiratory arrest). A distress call requiring immediate resuscitative efforts (code blue) was made. Restoration of heart and lung function using artificial respiration and manual closed chest compression (cardiopulmonary resuscitation [CPR]) was initiated. Although he was resuscitated, Mario Estrada remained in a coma.

On February 8, 2001, at 6:09 p.m., Mario Estrada died. An autopsy performed by the Los Angeles County Coroner attributed the cause of death to obstructive hydrocephalus, which medical experts attribute to complications resulting from the rupture of the cysticercosis cyst within Mario Estrada's brain.

DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Rosa Estrada,

Loss of Future Spousal Services	\$ 170,031
Loss of Future Support	\$ 71,404
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 62,500

Hans Estrada,

Loss of Future Paternal Services	\$ 170,031
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 62,500

Netzer Estrada,	
Loss of Future Paternal Services	\$ 170,031
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 62,500
Jerry Estrada,	
Loss of Future Paternal Services	\$ 170,031
Loss of Care, Comfort and Companionship (MICRA limit)	\$ 62,500
Costs of Litigation	\$ 50,000
Funeral Expenses	\$ <u>10,000</u>
TOTAL	\$1,061,528

The proposed settlement includes:

Rosa Estrada,	
Loss of Future Spousal Services	\$ 31,250
Loss of Care, Comfort and Companionship	\$ 62,500
Hans Estrada,	
Loss of Future Paternal Services	\$ 31,250
Loss of Care, Comfort and Companionship	\$ 62,500
Netzer Estrada,	
Loss of Future Paternal Services	\$ 31,250
Loss of Care, Comfort and Companionship	\$ 62,500
Jerry Estrada,	
Loss of Future Paternal Services	\$ 31,250
Loss of Care, Comfort and Companionship	\$ 62,500
Attorneys Fees (MICRA Estimate)	\$175,000
Costs of Litigation	\$ <u>50,000</u>
TOTAL	\$600,000

A portion of the recommended settlement may be directed by claimants to be used to purchase an annuity. The amount and structure of the annuity has not been selected at this time.

STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through December 8, 2003, are attorneys fees of \$132,521 and \$21,016.50 in costs.

This matter involved complex issues surrounding the medical condition of Mario Estrada and the cause of his death. In addition to the normal discovery in such matters, the County sought to disqualify the attorney representing Mario Estrada based on the attorney's familiarity with County policies and procedures arising from the attorney having previously represented the County as defense counsel in other medical malpractice matters. However, the County was unsuccessful in that motion. Throughout the course of litigation, Mario Estrada's attorney continually sought discovery of privileged and confidential information with regard to hospital policies and investigations, which required numerous motions and court appearances to protect against the release of such information. Further, Mario Estrada's attorney refused to comply with numerous requests for discovery by the County. Once the information requested was received, the County conducted extensive research and investigation into the legal status of Mario Estrada, and Mario Estrada's legal relationship with the claimants in this action. Also, due to the inability of the parties to reach a reasonable settlement amount shortly before the date on which the trial was to start, it was necessary for the County to be completely prepared for trial, including all motions, opposition to motions, exhibits, jury instructions, and witness preparation.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	\$600,000.00
County Attorneys Fees and Costs	<u>\$153,537.50</u>
TOTAL	\$753,537.50

EVALUATION

Medical experts will be critical of the failure of medical personnel to timely perform a CT scan, as ordered on September 12, 2000, and on October 19, 2000, to eliminate the possibility that Mario Estrada's symptoms might be the result of an abnormal mass or lesion within the brain. Medical experts will also be critical of the failure of medical personnel to transfer Mario Estrada to the Emergency Room on December 28, 2000, for performance of an immediate CT scan, and their failure to timely read and interpret the results of the CT scan performed on January 2, 2001. These failures resulted in a missed opportunity to timely diagnose and treat the cysticercosis cyst within Mario Estrada's brain, and are directly responsible for the results observed here.

We join with our private counsel, Law Offices of Schuler & Brown, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$600,000.

The Department of Health Services concurs in this settlement.